

Serial No. 10/619,956  
Art Unit 1772

Amendment C

Remarks:

Responsive to the Official Action mailed October 26, 2005, Applicant respectfully traverses the Examiner's rejection and requests reconsideration, reexamination and allowance of claims 1-9 and 18-27 in view of the following remarks.

Applicant first acknowledges the withdrawal of the finality of the prior rejection.

The Examiner has, however, rejected claims 1, 2, 4, 18, 19 and 24 under 35 U.S.C. 103(a) as unpatentable over newly cited De Van et al, U.S. Patent No. 3,696,969, in view of Brown, which was previously cited and discussed.

The Examiner characterizes De Van as disclosing a flange having first and second sides with a spout extending upwardly from the first side of the flange; the spout and flange being integral with one another. The Examiner further characterizes De Van as showing a sealing media molded over and onto the first side of the flange, which is disposed between the first side of the flange and the sealing media. The Examiner cites to col. 4, lines 4-5 for support for this characterization. The Examiner states further that the material that is molded over through heat sealing, or covering the flange of the spout, is formed from a second material different from the first material with a lower density, and cites to col. 4, lines 35-40 for support for this position. The Examiner concedes that De Van fails to disclose that the sealing media is heat activated, but cites to the disclosure of the Brown patent for supporting that it is known to heat seal a spout to a flexible bag material.

Respectfully, Applicant disagrees with the Examiner's position, and specifically, with the Examiner's contention as to what is disclosed by the De Van patent. However, prior to a detailed discussion of the distinctions between the De Van disclosure and the presently claimed invention, Application first notes that claim 1 (and in like manner, claim 18) has been amended to better define the structure of the invention. Specifically, the invention is directed to an over-molded fitment for mounting and sealing to flexible packaging material. The fitment includes a flange having first and second sides and a spout extending upwardly from the first side.

The fitment includes a molded sealing media that is molded over and onto the first side of

Serial No. 10/619,956  
Art Unit 1772

Amendment C

the flange, that is, the side from which the spout extends. The flange and spout are integral with one another and formed from a single first material and the sealing media is formed from a second material different from the first material. The second material has a density less than that of the first material.

The sealing media is disposed between the first side of the flange and the flexible packaging material when the fitment is mounted and sealed to the flexible packaging material. The sealing media is heat activated to effectively weld the fitment to the flexible packaging material.

This is not the structure that is disclosed in De Van or in De Van in combination with Brown. There is nothing in De Van that shows a molded sealing media that is molded over and onto the first side of the flange. Nothing whatsoever. In fact, referring to the two specific passages cited by the Examiner, De Van discloses nothing of the sort.

Rather, the first passage cited by the Examiner, col. 4, lines 4-5 provides "... an enlarged inner flange 52 secured to the interior of the bag 44, for example, by adhesive or plastic welding." The second passage, at col. 4, lines 3-40 provides that "[w]here desired, a separate reinforcing collar 68 of metal, plastic or the like may be inserted between flange 66 and outer end flap 46 as shown in FIG. 6".

Clearly, the first passage in no way provides for a molded sealing portion that is molded over and on to the first side of the flange. What this passage may be seen to disclose is an adhesive or plastic welding between the flange and the bag. What is does not disclosed is an overmolding or molded sealing portion on the first side of the flange.

Likewise, the second passage cannot be viewed as disclosing the claimed invention. The second passage refers to a separate reinforcing collar of metal, plastic or the like. The collar referred to in this passage is illustrated in FIG. 6 as item number 68, which shows a separate U-shaped support element that appears to slip over a recess in the spout, over the flange and the bag (see, FIG. 5). Admittedly, it may be a different material, however, it is not taught, or even suggested that the "different material" is molded over the flange. Accordingly, it is Applicant's

Serial No. 10/619,956  
Art Unit 1772

## Amendment C

position that there is simply nothing that would suggest the characterization as provided by the Examiner. That is, this passage, like that cited earlier simply does not disclose the claimed overmolding or molded sealing portion on the first side of the flange.

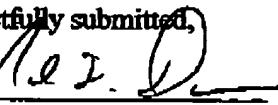
Respectfully, Applicant submits that because of the failure of De Van to disclose the claimed structure, specifically, the failure to show an overmolding or molded sealing portion on the first side of the flange, regardless of what Brown may or may not, the present rejection is improper and should be withdrawn.

Next, the Examiner has rejected claims 3, 5-9, 20-23 and 25-27 under 35 U.S.C. 103(a) as unpatentable over De Van in view of Brown, and further in view of Knox, III, which was also previously cited and discussed. However, because of the failure of the primary reference, the De Van patent, to disclose the overmolded fitment, the addition of Knox, III cannot make obvious claims 3, 5-9, 20-23 and 25-27 as asserted by the Examiner.

Accordingly, Applicant submits that claims 1-9 and 18-27 are allowable over the art of record and respectfully and earnestly solicits early indication of same.

Applicant believes that there is no fee due in connection with the present AMENDMENT C. Should there be any questions or concerns in connection with the present submittal, it is respectfully requested that the undersigned be contacted.

Respectfully submitted,

By 

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